IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL.

Writ Petition No. 5641(S/S)2001
(Old no. 2689 of 1993).

Markandey Prasad Thapliyal
S/o late Darshal Lal Thapliyal,
R/o 14, Tilak Road, Dehradun. ---- Petitioner.

Vs.

1. State of U.P through Secretary,
   Hill Development Department,
   (Uttaranchal Vikas Vibhag), Lucknow,
2. Conservator of Forest, Shivalik Circle,
   5 Tilak Road, Dehradun,
3. Chief Project Director,
   Water Shed Management Project,
   Indira Nagar Forest Colony, Dehradun,
4. Divisional Forest Officer, Shivalik Division,
   5, Tilak Road, Dehradun. ---- Respondents.

Sri Sharad Sharma, learned counsel for the petitioner.
Sri H.M. Raturi, Learned Standing Counsel for State of Uttarakhand/ respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Sharad Sharma, learned counsel for the petitioner and Sri H.M. Raturi, Learned Standing Counsel for State of Uttarakhand/ respondents.

By means of this writ petition, the petitioner has prayed for the following reliefs-

i. Issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 13th January 1993 of the respondent no. 3 (contained in annexure- V to this writ petition),

ii. Issue any other writ, order or direction in the nature of which this Hon'ble Court may deem just and proper,

iii. Award the costs of this petition to the petitioner.

Stand of the petitioner is that the petitioner, who was working as Forester in the Forest Department was appointed on deputation in the year 1986 under the establishment of Water Shed Management Project, Indira Nagar, Forest Colony, Dehradun. Initially the period of deputation was for three years. It is ambiguous from the pleadings (in the writ petition and in counter affidavit as well) as to whether the said period of deputation was ever extended or not. The petitioner remained in service of Water Shed Management Project, however his lien in the Forest Department is still continuing. In the year 1993, the petitioner was directed to be repatriated to his parent department.

Aggrieved with that repatriation order dated 13th January 1993, the petitioner preferred the instant petition and initially the Allahabad High Court passed interim order on 2nd Feb. 1993 and on the basis of that interim order, the petitioner is continuing with the Water Shed Management Project. About 20 years have passed; the petitioner is serving in the same Project. The Petitioner has submitted that now after restructure of the Department a number of posts are lying vacant and the petitioner having been 20 years' experience with the Department is entitled to be absorbed in the Project. The posts of Foresters are vacant in the Project. In case, the petitioner is repatriated to his parent Department, the post will remain vacant. In these circumstances, learned counsel for the petitioner has submitted that the respondents may be directed to absorb the petitioner in the service of Water Shed Management Project now known as "Krishi Avam Jalagam Vikas".

On one hand the petitioner has submitted that his lien is with the Forest Department but on the other he is relying on the letter dated 21st December 1992 of Deputy Conservator of Forest, Shivalic Forest Division, Dehradun written to the Conservator, Shivalic Circle, U.P., which specifically states that the petitioner was not sent to the Water Shed Management Project on deputation, on the contrary he was appointed in the said Department as a fresh appointee. In these circumstances the matter requires enquiry as to whether the petitioner was sent on deputation in the Water Shed Management Project or his appointment in the water Shed Management Project was a fresh one. Further, the respondents are required to find out whether lien of the petitioner is still continuing with the Forest Department or not and in case his lien is still continuing then there arises no question of his fresh appointment in the Water Shed Department.

I do not find any ground to interfere with the order impugned. The petitioner may approach to the appropriate authority for redressal of his grievances and in case, the authority comes to the conclusion that services of the petitioner are required in the Project considering his long/past experiences in the Department, they may pass appropriate orders in this regard.

With these observations, the writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

May 24, 2007:
NCM: